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12 Local Intelligence, LLC

13
UNITED STATES DISTRICT COURT
14
NORTHERN DISTRICT OF CALIFORNIA
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16 LOCAL INTELLIGENCE, LLC,   CASE NO. 3:17-6437

17   Plaintiff,

18 vs.   **COMPLAINT FOR PATENT
                                     INFRINGEMENT**
19 HTC AMERICA, INC., and HTC
20 CORPORATION.   **DEMAND FOR JURY TRIAL**

21   Defendants.

22   Plaintiff Local Intelligence, LLC ("Local Intelligence") files this Complaint against HTC

23 America, Inc. ("HTC America") and HTC Corporation ("HTC Corp.") (collectively, "HTC" or

24 "Defendants") for infringement of U.S. Patents Nos. 8,903,067 (the "'067 patent"), 9,219,982 (the

25 "'982 patent"), and 9,084,084 (the "'084 patent").

26   **PARTIES**

27   1.   Local Intelligence is a Texas limited liability company with a place of business

28 located at 1400 Preston Road, Suite 400, Plano, Texas 75093.

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2.   On information and belief, HTC America is a Washington State corporation with its

principal place of business located at 308 Occidental Ave S 3rd floor, Seattle, WA 98104. HTC

America can be served through its registered agent Cogency Global Inc., at 1325 J Street, Suite

1550, Sacramento, CA 95814.

3.   On information and belief, Defendant HTC Corp. is a Taiwanese corporation with

its principal place of business located at No.23, Xinghua Rd., Taoyuan City, Taoyuan County 330,

Taiwan, R.O.C.

JURISDICTION AND VENUE

4.   This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

5.   Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

6.   This Court has general and specific personal jurisdiction over HTC. HTC has

sufficient contacts with this judicial district, including but not limited to regular and established

places of business for HTC America and its subsidiaries located within the district, including at

2700 18th Street San Francisco, CA 94110 and 655 W Evelyn Ave, Suite 3, Mountain View, CA

94041 as well as numerous sales locations in this district.

7.   Venue is proper in this District under 28 U.S.C. § 1400(b). HTC Corp. is a foreign

corporation, while HTC America has regular and established places of business located in this

district. A substantial part of the infringement alleged in this Complaint has occurred and is

occurring in this district, including the marketing, selling, and offering for sale of infringing

products.

INTRADISTRICT ASSIGNMENT

8.   Pursuant to Local Rule 3-2(c), this case is subject to district-wide assignment

because it is an Intellectual Property Action.

THE PATENTS-IN-SUIT

9.   There are three United States Patents at issue in this litigation. Each is titled

"Apparatus and Method for Automatically Refreshing a Display of a Telephone." The '067 patent

(a true and correct copy of which is attached hereto as Exhibit A) is the parent of the other two.

The '067 patent received careful and exacting scrutiny from the United States Patent and Trademark Office prior to its issuance, as documented in its file history (a true and correct copy of which is attached hereto as Exhibit B).   The two additional patents at issue in this litigation are United States Patent Nos. 9,219,982 (the "982 Patent") and 9,084,084 (the "'084 Patent").   True and correct copies of these patents are attached as Exhibits C and D to this Complaint, respectively. (Collectively, the '067 patent, the '982 patent and the '084 patent are referred to herein as the "patents-in-suit.").

10.   Claim 1 of the '067 patent discloses a telephone having

a.   a display panel; a datastore including at least one function,

b.   wherein the at least one function comprises information relating to a current location of a telephone and at least one other condition associated with a user of the telephone,

c.   wherein the at least one function is associated with at least one communication service;

d.   circuitry operable to connect the telephone to a location server to obtain a current location of the telephone; and

e.   a function selector programmable to refresh a screen on the display panel of the telephone to include at least one communication service associated with the function, based at least in part on a current location of the telephone.

11.   The '892 patent was duly and lawfully issued by the U.S. Patent and Trademark Office on July 14, 2015.

12.   Claim 1 of the '892 patent discloses a claim for a telephone comprising:

a.   a display panel, a processor, and a datastore comprising

b.   at least one function comprising information relating to a current location of the telephone and a user of the telephone,

c.   the telephone operable to connect to a communication network,

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    d.   wherein the at least one function is associated with at least one communication service,

    e.   wherein the processor is operable to connect the telephone to a location server to obtain a current location of the telephone,

    f.   select a function from the datastore, and

    g.   refresh a screen on the display panel to include the at least one communication service associated with the selected function based at least in part on the current location of the telephone.

13.   The '084 patent was duly and lawfully issued by the U.S. Patent and Trademark Office on July 14, 2015

14.   Claim 1 of the '084 patent discloses a conferencing system comprising:

    a.   a display panel, a processor, a telephone coupled to a voice network, the display panel and the processor, and a datastore comprising at least one function comprising

    b.   information relating to a current location of the telephone and a user of the telephone,

    c.   wherein the at least one function is associated with at least one conferencing communication service,

    d.   wherein the processor is operable to connect the telephone to a location server to obtain a current location of the telephone,

    e.   select a function from the datastore, and

    f.   refresh a screen on the display panel to include the at least one conferencing communication service associated with the selected function based on the current location of the telephone.

15.   The inventor of the inventions claimed in the '067, '982 and '084 patents is Shin Cheung Simon Chiu.

16.   Local Intelligence is the assignee and owner of all right, title and interest in and to the '067, '084 and '982 patents, including the right to assert all causes of action arising under said

patents and the right to any remedies for infringement of it, including but not limited to the right to sue for past, present, and future damages.

17.   The accused devices include at least HTC phones released since December 2, 2014 with the Sense 7.0 or higher versions of HTC software, which includes Sense Home and/or Sense Companion features. Each device infringes the patents-in-suit (collectively, the "Accused HTC Smartphones"). Representative Accused HTC Smartphones include the HTC One M9, the HTC 10, and the HTC U11.

<div align="center">

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 8,903,067)

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18.   Local Intelligence repeats and realleges the allegations of paragraphs 1 through 17 as if fully set forth herein.

19.   Without license or authorization and in violation of 35 U.S.C. § 271(a), HTC has infringed at least claim 1 of the '067 patent by making, having made, using, importing, offering for sale, and/or selling infringing smartphones, including the Accused HTC Smartphones, each of which uses a location server to obtain a current location of the telephone and then uses that location information to refresh the display on the telephone with certain information, as further explained below.

20.   The Accused HTC Smartphones meet all the limitations of Claim 1 as they are

   a.   telephones comprising

   b.   a display panel;

   c.   a datastore including at least one function, wherein the at least one function comprises information relating to a current location of a telephone and at least one other condition associated with a user of the telephone,

   d.   wherein the at least one function is associated with at least one communication service;

   e.   circuitry operable to connect the telephone to a location server to obtain a current location of the telephone; and

f.   a function selector programmable to refresh a screen on the display panel of the telephone to include at least one communication service associated with the function, based at least in part on a current location of the telephone.

21.   By way of illustration and only as example, the HTC M9 phones feature a datastore including at least one function, wherein the at least one function comprises information relating to a current location of a telephone and at least one other condition associated with a user of the telephone, as shown in Figures A, B, and C following this paragraph.

Figure A (Source: http://www.htc.com/us/support/htc-one-m9-verizon/howto/617482.html)
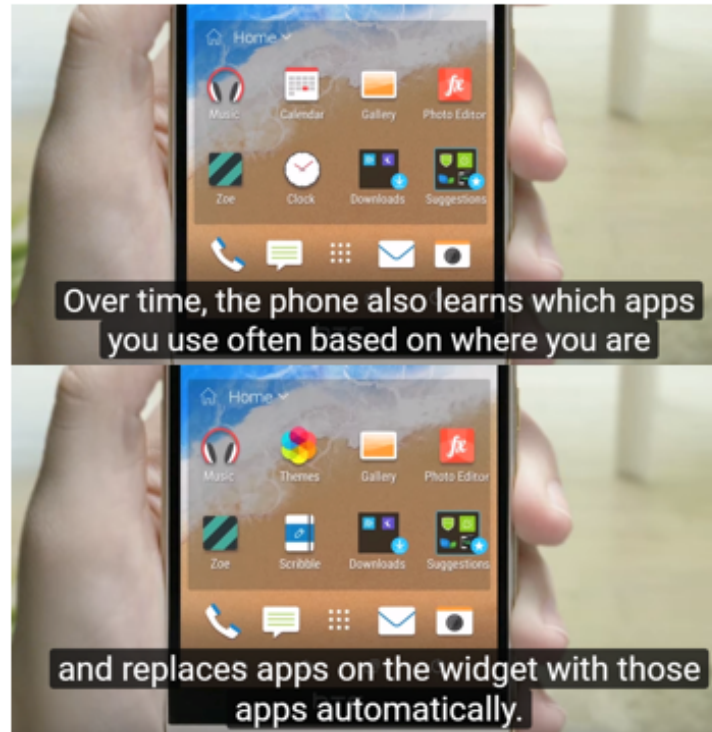
What is the HTC Sense Home widget?

Get quick access to apps, shortcuts and folders you use most frequently based on where you are. With the HTC Sense Home widget, HTC One M9 continually adapts to how you use it. For example, apps you use most frequently for work, will show up when you're at your office. The HTC Sense Home widget changes depending on whether you're at home, work, or somewhere else.

Figure B (Source: http://www.trustedreviews.com/opinion/one-m9-plus-vs-one-m9-292586)

Sense 7 and Android Lollipop all round

Both the One M9 and the One M9+ ship with the latest Sense 7.0 UI mash-up with Android Lollipop 5.0.2 as the foundations. It's one of the sleekest approaches to Google's mobile operating system we've seen to date. On the Android side, the improved lock screen notifications is the most noticeable new addition. On the Sense front, there's the new HTC Themes, Sense Home widget and refined Photo Editor to go alongside stable Sense features like Blinkfeed and gesture-based Motion Launch.

Figure C (Source: https://www.youtube.com/watch?time_continue=3&v=D1K_3HmVIvc)

Over time, the phone also learns which apps you use often based on where you are

and replaces apps on the widget with those apps automatically.

22.   The M9 functions described in the paragraph immediately above are associated with at least one communication service and the M9 features circuitry operable to connect the telephone to a location server to obtain a current location of the telephone, as shown in Figure D.

Figure D (Source: http://www.htc.com/us/support/htc-one-m9-verizon/howto/617742.html)

Turning location services on or off

In order to find your location on HTC One M9, you need to enable location sources.

1. From the Home screen, tap ⠿ > **Settings** > **Location**.

2. Tap the **On/Off** switch to turn location services on and off.

3. Under Location sources, select the location mode you want. For example, for a better estimate of your location, choose **High accuracy**. To save battery power, choose **Battery saving**.

Turning off a location source (for example GPS) means no applications on HTC One M9 will collect your location data through that location source. However, third party applications may collect — and HTC One M9 may continue to provide — location data through other sources, including through Wi-Fi and signal triangulation.

23.   The M9 has a function selector programmable to refresh a screen on the display panel of the telephone to include at least one communication service associated with the function, based at least in part on a current location of the telephone, as shown in Figure E.

Figure E (Source: http://www.htc.com/us/support/htc-one-m9-verizon/ howto/617482.html ; https://www.youtube.com/watch?v=xtRrN8FLwq4)

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24.   Local Intelligence is entitled to recover from Defendants the damages sustained by Local Intelligence as a result of Defendants' infringement of the '067 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

25.   Upon information and belief, Defendants began selling infringing phones in April 2015, if not earlier.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 9,218,982)

26.   Local Intelligence repeats and realleges the allegations of paragraphs 1 through 25 as if fully set forth herein

27.   Without license or authorization and in violation of 35 U.S.C. § 271(a), HTC has

infringed at least claim 1 of the '982 patent by making, having made, using, importing, offering for sale, and/or selling infringing smartphones, including the Accused HTC Smartphones, each of which uses a location server to obtain a current location of the telephone and then uses that location information to refresh the display on the telephone with certain information, as further explained below.

28.   The Accused HTC Smartphones meet all the limitations of Claim 1 as they are

a.   telephones comprising

b.   a display panel, a processor, and a datastore comprising

c.   at least one function comprising information relating to a current location of the telephone and a user of the telephone,

d.   the telephone operable to connect to a communication network,

e.   wherein the at least one function is associated with at least one communication service,

f.   wherein the processor is operable to connect the telephone to a location server to obtain a current location of the telephone,

g.   select a function from the datastore, and

h.   refresh a screen on the display panel to include the at least one communication service associated with the selected function based at least in part on the current location of the telephone.

29.   By way of illustration and only as example, the M9 is a telephone comprising a display panel, a processor, and a datastore, as shown in Figure F.

Figure F (Source: http://www.htc.com/us/smartphones/htc-one-m9)

Size	Weight	Display
144.6 x 69.7 x 9.61 mm	157g	5.0 inch, Full HD 1080p, Corning® Gorilla® Glass
CPU Speed	**Platform Android**	**SIM Card Type**
Qualcomm® Snapdragon™ 810, octa core, 64-bit, 4 x 2.0GHz + 4 x 1.5GHz	Android™ with HTC Sense™	nano SIM
Network[1]	**Memory**[2]	**GPS**
2G/2.5G - GSM/GPRS/EDGE: 850/900/1800/1900 MHz	ROM: 32GB / RAM: 3GB, Extended memory microSD™ up to 2TB	Internal GPS antenna + GLONASS
3G UMTS: 850/900/1900/2100 MHz		**Sensors**
4G LTE: FDD: Bands 1,3,5,7,8,20,28	**Sound**	Ambient light sensor, Proximity sensor, Accelerometer, Compass
TDD: Bands 38, 40, 41	HTC BoomSound™ with Dolby Audio™	sensor, Gyro sensor, Magnetic sensor, Sensor Hub

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30.   The M9 features at least one function comprising information relating to a current location of the telephone and a user of the telephone, as shown in Figures G, H and I.

Figure G (Source: http://www.htc.com/us/support/htc-one-m9-verizon/howto/617482.html)

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Get quick access to apps, shortcuts and folders you use most frequently based on where you are. With the HTC Sense Home widget, HTC One M9 continually adapts to how you use it. For example, apps you use most frequently for work, will show up when you're at your office. The HTC Sense Home widget changes depending on whether you're at home, work, or somewhere else.

Figure H (Source www.androidpolice.com/2016/05/30/google-maps-v9-26-1-adds-search-along-route-walking-bicycling-changes-driving-mode-fabs-adds-new-settings-apk-teardown-download/; https://unop.uk/on-google-maps-geotagging-and-privacy/)

Sense 7 and Android Lollipop all round

Both the One M9 and the One M9+ ship with the latest Sense 7.0 UI mash-up with Android Lollipop 5.0.2 as the foundations. It's one of the sleekest approaches to Google's mobile operating system we've seen to date. On the Android side, the improved lock screen notifications is the most noticeable new addition. On the Sense front, there's the new HTC Themes, Sense Home widget and refined Photo Editor to go alongside stable Sense features like Blinkfeed and gesture-based Motion Launch.

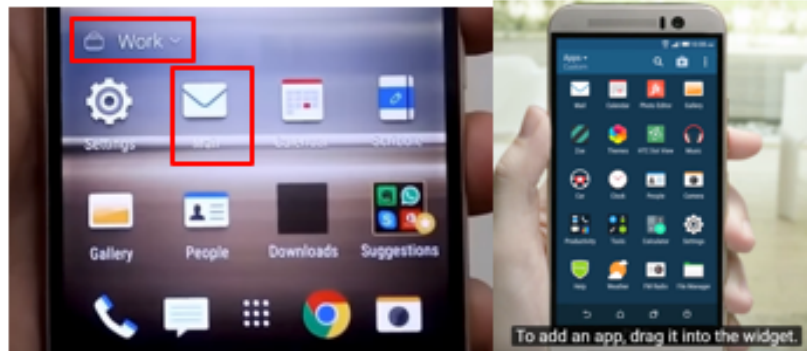**Figure I** (Source: https://www.youtube.com/watch?time_continue=3&v=D1K_3HmVIvc)
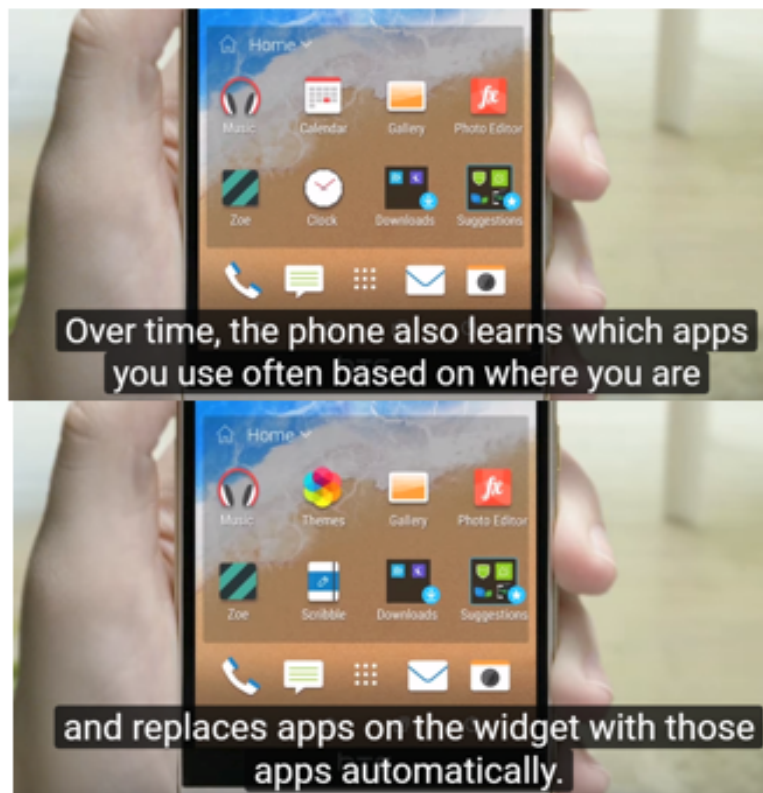
31.   The M9 is operable to connect to a communications network, as shown in Figure J.

Figure J (Source: http://www.htc.com/us/smartphones/htc-one-m9/) (red box added)

32.   The M9 features at least one function associated with at least one communication service, as shown in Figures K.

Figure K (Source: https://www.youtube.com/watch?v=xtRrN8FLwq4; https://www.youtube.com/watch?time_continue=3&v=D1K_3HmVIvc) (red boxes added)

33.   The M9's processor is operable to connect the telephone to a location server to obtain a current location of the telephone, as shown in Figure L.

Figure L (Source: http://www.htc.com/us/support/htc-one-m9-verizon/howto/617742.html)

Turning location services on or off

In order to find your location on HTC One M9, you need to enable location sources.

1. From the Home screen, tap ⣿ > **Settings** > **Location**.

2. Tap the **On/Off** switch to turn location services on and off.

3. Under Location sources, select the location mode you want. For example, for a better estimate of your location, choose **High accuracy**. To save battery power, choose **Battery saving**.

Turning off a location source (for example GPS) means no applications on HTC One M9 will collect your location data through that location source. However, third party applications may collect — and HTC One M9 may continue to provide — location data through other sources, including through Wi-Fi and signal triangulation.

34.   The M9 is able to select a function from the datastore, and refresh a screen on the display panel to include the at least one communication service associated with the selected

function based at least in part on the current location of the telephone, as shown in Figure M.

Figure M (Source: http://www.htc.com/us/support/htc-one-m9-verizon/howto/617482.html)

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35.   Local Intelligence is entitled to recover from Defendants the damages sustained by Local Intelligence as a result of Defendants' infringement of the '982 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

36.   Upon information and belief, Defendants began selling infringing phones in April 2015, if not earlier.

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 9,084,084)

37.   Local Intelligence repeats and realleges the allegations of paragraphs 1 through 36 as if fully set forth herein.

38.   Without license or authorization and in violation of 35 U.S.C. § 271(a), HTC has infringed at least claim 1 of the '084 patent by making, having made, using, importing, offering for sale, and/or selling infringing smartphones, including the Accused HTC Smartphones, each of which has a conferencing system that uses a location server to obtain a current location of the telephone and then uses that location information to refresh the display on the telephone with certain information, as further explained below.

39.   The Accused HTC Smartphones meet all limitations of Claim 1 as they are

   a.   a conferencing system comprising

b. a display panel, a processor, a telephone coupled to a voice network, the display panel and the processor, and a datastore comprising at least one function comprising

c. information relating to a current location of the telephone and a user of the telephone,

d. wherein the at least one function is associated with at least one conferencing communication service,

e. wherein the processor is operable to connect the telephone to a location server to obtain a current location of the telephone,

f. select a function from the datastore, and

g. refresh a screen on the display panel to include the at least one conferencing communication service associated with the selected function based on the current location of the telephone.

40.   By way of illustration and only as example, the M9 is a conferencing system comprising a display panel, a processor, a telephone coupled to a voice network, the display panel and the processor, and a datastore comprising at least one function, as shown in Figure N.

Figure N (Source: http://www.htc.com/us/smartphones/htc-one-m9/)

41.   The M9 provides information relating to a current location of the telephone and a user of the telephone, as shown in Figure O, P, and Q.

Figure O (Source: http://www.htc.com/us/support/htc-one-m9-verizon/howto/617482.html)

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Figure P (Source www.androidpolice.com/2016/05/30/google-maps-v9-26-1-adds-search-along-route-walking-bicycling-changes-driving-mode-fabs-adds-new-settings-apk-teardown-download/; https://unop.uk/on-google-maps-geotagging-and-privacy/)

Sense 7 and Android Lollipop all round

Both the One M9 and the One M9+ ship with the latest Sense 7.0 UI mash-up with Android Lollipop 5.0.2 as the foundations. It's one of the sleekest approaches to Google's mobile operating system we've seen to date. On the Android side, the improved lock screen notifications is the most noticeable new addition. On the Sense front, there's the new HTC Themes, Sense Home widget and refined Photo Editor to go alongside stable Sense features like Blinkfeed and gesture-based Motion Launch.

Figure Q (Source: https://www.youtube.com/watch?time_continue=3&v=D1K_3HmVIvc)

42.   The M9 also provides at least one function associated with at least one conferencing communication service, as shown in Figures R, S, and T.

Figure R (Source: https://www.youtube.com/watch?v=xtRrN8FLwq4; https://www.youtube.com/ watch?time_continue=3&v=D1K_3HmVIvc) (red boxes added)

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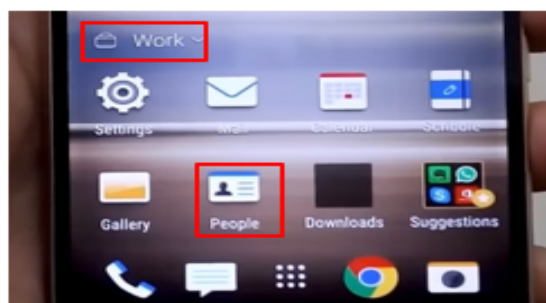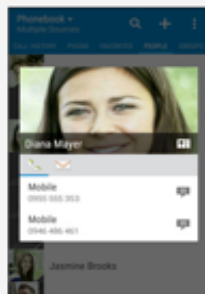**Figure S** (Source: http://www.htc.com/us/support/htc-one-m9/howto/603985.html)

Getting in touch with a contact

1. From the Home screen, tap ⠿, and then find and tap **People**.

2. Tap a contact's photo (not the name), and then choose how you want to get in touch with that contact.

Tip: For more ways of getting in touch with your contact, tap an icon below the contact photo.

Figure T (Source: http://www.htc.com/us/support/htc-one-m9/howto/603925.html)

Setting up a conference call

Conference calling with your friends, family, or co-workers is easy. Make or accept a call, and then simply dial each subsequent call to add it to the conference.

Important:

Make sure that you have conference calling service activated. Contact your mobile operator for details.

1. Make a call to the first conference call participant.

2. When connected, tap ⁝ > **Add call**, and then dial the number of the second participant. The first participant is put on hold.

3. When connected to the second participant, tap ⋀ .

4. To add another participant, tap ⌕⁺, and then dial the number of the contact.

5. When connected, tap ⋀ to add the participant to the conference call. Tap ••• to access options such as ending the call with a participant.

6. To end the conference call, tap **End Call**.

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43.   The M9 is operable to connect the telephone to a location server to obtain a current location of the telephone, as shown in Figure U.

Figure V (Source: http://www.htc.com/us/support/htc-one-m9/howto/603925.html)

Turning location services on or off

In order to find your location on HTC One M9, you need to enable location sources.

1. From the Home screen, tap ⁝⁝⁝ > **Settings** > **Location**.
2. Tap the **On/Off** switch to turn location services on and off.
3. Under Location sources, select the location mode you want. For example, for a better estimate of your location, choose **High accuracy**. To save battery power, choose **Battery saving**.

Turning off a location source (for example GPS) means no applications on HTC One M9 will collect your location data through that location source. However, third party applications may collect — and HTC One M9 may continue to provide — location data through other sources, including through Wi-Fi and signal triangulation.

44.   The M9 can select a function from the datastore refresh a screen on the display panel to include the at least one conferencing communication service associated with the selected function based on the current location of the telephone, as shown in Figure W.

Figure W (Source: http://www.htc.com/us/support/htc-one-m9-verizon/howto/617482.html)

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45.   Local Intelligence is entitled to recover from Defendants the damages sustained by Local Intelligence as a result of Defendants' infringement of the '084 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

46.   Upon information and belief, Defendants began selling infringing phones in April 2015, if not earlier.

PRAYER FOR RELIEF

Local Intelligence prays for the following relief:

a)   A judgment be entered that Defendants have infringed one or more claims of the '067 patent, the '982 patent and the '084 patent;

b)   A judgment be entered that the '067 patent, the '982 patent and the '084 patent are valid and enforceable;

c)   An award of damages to be paid by Defendants adequate to compensate Local Intelligence for Defendants' past infringement of the '067 patent, the '982 patent, and the '084 patent through the earlier of the date of judgment or the expiration of the patents, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

d)   A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Local Intelligence's reasonable attorneys' fees; and

e)   An award to Local Intelligence of such further relief at law or in equity as the Court decides is just and proper.

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<u>DEMAND FOR JURY TRIAL</u>

2   Local Intelligence demands trial by jury for all issues so triable pursuant to Fed. R. Civ. P.

3   38(b) and Civil L.R. 3-6(a).

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Dated: November 3, 2017   By *Marc Belloli*

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